

FILED

IN THE MATTER OF:

Malone Service Company Site  
Texas City, Texas

Proceeding under Section 122(g)(4)  
of the Comprehensive Environmental  
Response, Compensation, and  
Liability Act of 1980, as amended,  
42 U.S.C. 9622(g)(4)

§ U.S. EPA Docket No. 06-0911

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REGIONAL HEARING CLERK  
EPA REGION VI

**ADMINISTRATIVE ORDER  
ON CONSENT**

**CERCLA SECTION 122(g)(4) *DE MINIMIS* CONTRIBUTOR  
ADMINISTRATIVE ORDER ON CONSENT**

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IN THE MATTER OF:	§	U.S. EPA Docket No. 06-09-11
	§	
Malone Service Company Superfund Site	§	
Texas City, Texas	§	
	§	
Proceeding under Section 122(g)(4)	§	
of the Comprehensive Environmental	§	
Response, Compensation,	§	
and Liability Act of 1980, as amended,	§	
42 U.S.C. 9622(g)(4)	§	ADMINISTRATIVE ORDER
	§	ON CONSENT

## I. JURISDICTION

1. This Administrative Order on Consent ("Consent Order" or "Order") is issued pursuant to the authority vested in the President of the United States by Section 122(g)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9622(g)(4), to reach settlements in actions under Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607. The authority vested in the President has been delegated to the Administrator of the United States Environmental Protection Agency ("EPA") by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to the Regional Administrators of the EPA by EPA Delegation No. 14-14-E (July 28, 2003). Those authorities were further delegated to the Director, Superfund Division.

2. This Administrative Order on Consent is issued to the parties identified in Appendix A ("Respondents"). Each Respondent agrees to undertake all actions required by this Consent Order. Each Respondent further consents to and will not contest EPA's jurisdiction to issue this Consent Order or to implement or enforce its terms.

3. The EPA and Respondents agree that the actions undertaken by Respondents in accordance with this Consent Order do not constitute an admission of any liability by any Respondent. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Consent Order, the validity of the Statement of Facts or Determinations contained in Sections IV and V, respectively, of this Consent Order.

## II. STATEMENT OF PURPOSE

4. By entering into this Consent Order, the mutual objectives of the Parties are:

a. to reach a final settlement among the Parties with respect to the Site pursuant to Section 122(g) of CERCLA, 42 U.S.C. § 9622(g), that allows Respondents to make a cash payment, including a premium, to resolve their alleged civil liability under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, for Response Costs incurred and to be incurred at or in connection with the Site, thereby reducing litigation relating to the Site;

b. to simplify any remaining administrative and judicial enforcement activities concerning the Site by eliminating a substantial number of potentially responsible parties from further involvement at the Site; and

c. to obtain settlement with Respondents for their fair share of Response Costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund and by private parties and to provide for full and complete contribution protection for Respondents with regard to the Site pursuant to Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5).

### **III. DEFINITIONS**

5. Unless otherwise expressly provided herein, terms used in this Consent Order that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in the statute or regulations. Whenever the terms listed below are used in this Consent Order, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601, *et seq.*

b. "Consent Order" or "Order" shall mean this Administrative Order on Consent and all appendices attached hereto. In the event of conflict between this Order and any appendix, the Order shall control.

c. "Day" shall mean a calendar day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments, agencies, or instrumentalities.

e. "EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

f. "Interest" shall mean interest at the current rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a).<sup>1</sup>

g. "Paragraph" shall mean a portion of this Consent Order identified by an arabic numeral.

h. "Parties" shall mean EPA and Respondents.

i. "Respondents" shall mean those persons, corporations, or other entities listed in Appendix A.

j. "Response Costs" shall mean all costs of "response" as that term is defined by Section 101(25) of CERCLA, 42 U.S.C. § 9601(25).

k. "Section" shall mean a portion of this Consent Order identified by a roman numeral.

l. "Site" shall mean the Malone Service Company Superfund Site, encompassing approximately one hundred fifty (150) acres, located in Galveston County, Texas City, Texas, at 5300 Campbell's Bayou Road, and depicted more clearly on the map attached as Appendix B.

n. "United States" shall mean the United States of America, including its departments, agencies, and instrumentalities, which includes, without limitation, the EPA.

#### **IV. STATEMENT OF FACTS**

6. The Site consists of approximately 150 acres located in Galveston County, Texas City, Texas, at 5300 Campbell's Bayou Road. It is within an industrial and petrochemical area, on the shores of Swan Lake and Galveston Bay, approximately 1.6 miles southeast of the intersection of Loop 197 and State Highway 3. The Site operated as a reclamation, storage, and disposal facility for waste oils and chemicals. On June 14, 2001, the Site was placed on the National Priorities List ("NPL") of Superfund sites. EPA has undertaken response actions at the Site to address threats to public health, welfare, or the environment; and has incurred certain costs in response to conditions at the Site. On September 30, 2003, EPA entered into an Administrative Order on Consent ("AOC") with some of the potentially responsible parties ("PRPs") to conduct a remedial investigation/feasibility study ("RI/FS") at the Site. These PRPs

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<sup>1</sup> The Superfund currently is invested in 52-week MK bills. The interest rate for these MK bills changes on October 1 of each year. To obtain the current rate, contact Vince Velez, Office of Administration and Resource Management, Financial Management Division, Superfund Accounting Branch, at (202) 260-6465.

completed the remedial investigation with EPA oversight in April 2006 and submitted the feasibility study report in June 2008. The RI/FS determined the full nature and extent of the contamination at the Site, the risks it poses to human health, welfare, or environment and will serve as the basis for developing long-term cleanup strategies for the Site.

7. In performing these response actions, EPA has incurred costs at or in connection with the Site. As of July 31, 2007, EPA has incurred response costs at this Site of \$17,589,973. Approximately \$5,446,142 has been incurred in connection with the Site RI/FS. Based on current estimates, EPA expects that future remedial costs will be approximately \$54,018,630.

8. Each Respondent listed on Appendix A arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment, of a hazardous substance owned or possessed by such Respondent, by any other person or entity, at the Site, or accepted a hazardous substance for transport to the Site which was selected by such Respondent.

9. The amount of hazardous substances contributed to the Site by each Respondent is less than 0.60% of the hazardous substances found at the Site, and the hazardous substances contributed by each Respondent to the Site are not significantly more toxic or of significantly greater hazardous effect than other hazardous substances at the Site. Appendix C lists the volume of hazardous substances contributed to the Site by each Respondent.

10. The EPA estimates that the total response costs incurred and to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund and by private parties is \$71,608,603. The payment required to be made by each Respondent pursuant to this Consent Order is a minor portion of this total amount.

## **V. EPA'S DETERMINATIONS**

11. Based upon the Statement of Facts set forth above and on the administrative record for this Site, EPA has determined that:

a. The Malone Service Company Superfund site is a "facility" as that term is defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9);

b. Each Respondent is a "person" as that term is defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21);

c. Each Respondent is a "potentially responsible party" within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1);

d. There has been an actual or threatened "release" of a "hazardous substance" from the Site as those terms are defined in Section 101(22) and (14) of CERCLA, 42 U.S.C. § 9601(22) and (14);

e. The actual or threatened "release" caused the incurrence of response costs;

f. Prompt settlement with each Respondent is practicable and in the public interest within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1);

g. As to each Respondent, this Consent Order involves only a minor portion of the response costs at the Site within the meaning of Section 122(g)(1) of CERCLA, 42 U.S.C. § 9622(g)(1); and

h. The amount of hazardous substances contributed to the Site by each Respondent and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each Respondent are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. § 9622(g)(1)(A).

## **VI. ORDER**

12. Based upon the administrative record for the Site and the Statement of Facts and Determinations set forth above and in consideration of the promises and covenants set forth herein, the following is hereby AGREED TO AND ORDERED:

## **VII. PAYMENT**

13. Within 30 days of the effective date of this Consent Order, each Respondent shall pay to the EPA Hazardous Substance Superfund the amount which corresponds to each Respondent's contribution to the Site, set forth in Appendix D to this Consent Order.

14. Each Respondent's payment includes an amount for: (a) non-RI/FS response costs incurred at or in connection with the Site; (b) RI/FS response costs incurred at or in connection with the Site; (c) projected future response costs to be incurred at or in connection with the Site; and (d) a premium to cover the risks and uncertainties associated with this settlement, including but not limited to, the risk that total response costs incurred or to be incurred at or in connection with the Site by the EPA Hazardous Substance Superfund, or by any private party, will exceed the estimated total response costs upon which Respondents' payments are based.

15. Each payment shall be made by certified or cashier's check made payable to "EPA Hazardous Substance Superfund." Each check shall reference the name and address of the party making payment, and the following: Malone Service Company Superfund Site; Region 6; Site Spill ID Number A6B9; and U.S. EPA Docket No. 06-09-11. Each check shall be sent to:

EPA Superfund-Malone Service Company Superfund Site (A6B9)  
CERCLIS #: TXD057577579  
Superfund Payments  
Cincinnati Finance Center  
P.O. Box 979076  
St. Louis, MO 63197-9000

Or you may make payment electronically by sending payment, referencing the name and address of the party making payment and the following: Malone Service Company Superfund Site; Region 6; Site Spill ID Number A6B9; and U.S. EPA Docket No. 06-09-11, to:

Federal Reserve Bank of New York

ABA = 021030004

Account = 68010727

SWIFT address = FRNYUS33

33 Liberty Street

New York, NY 10045

Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

The total amount to be paid pursuant to this Consent Order shall be deposited by EPA in the Malone Service Company Superfund Site Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance the response action at or in connection with the Site.

16. At the time of payment, each Respondent shall send notice that such payment has been made to:

Chief

Superfund Enforcement Assessment Section (6SF-TE)

United States Environmental Protection Agency

Region 6

1445 Ross Avenue

Dallas, Texas 75202-2733

And

by email to [acctsreceivable.cinwd@epa.gov](mailto:acctsreceivable.cinwd@epa.gov), or in writing to:

EPA Cincinnati Finance Office

26 Martin Luther King Drive

Cincinnati, OH 45268

#### **VIII. FAILURE BY RESPONDENTS TO MAKE PAYMENT**

17. If any Respondent fails to make full payment within the time required by Paragraph 13, that Respondent shall pay Interest on the unpaid balance. In addition, if any Respondent fails to make full payment as required by Paragraph 13, the United States may, in addition to any other available remedies or sanctions, bring an action against that Respondent seeking injunctive relief to compel payment and/or seeking civil penalties under Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), for failure to make timely payment.



## **IX. CERTIFICATIONS OF RESPONDENTS**

18. By signing this Consent Order, each Respondent certifies, individually, that, to the best of its knowledge and belief, it has:

a. not altered, mutilated, discarded, destroyed, or otherwise disposed of any records, documents, or other information relating to its potential liability regarding the Site after notification of potential liability or the filing of a suit against it regarding the Site; and

b. has and will fully comply with any and all EPA requests for information regarding the Site pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e).

## **X. COVENANTS BY EPA**

19. In consideration of the payments that will be made by Respondents under the terms of this Consent Order, and except as specifically provided in Section XI (Reservations of Rights by EPA), EPA covenants not to sue or take administrative action against any of the Respondents pursuant to Sections 106 or 107 of CERCLA, 42 U.S.C. §§ 9606 or 9607, relating to the Site. With respect to present and future liability, this covenant not to sue shall take effect for each Respondent upon receipt of that Respondent's payment as required by Section VII. With respect to each Respondent, individually, this covenant not to sue is conditioned upon: (a) the satisfactory performance by Respondent of all obligations under this Consent Order; and (b) the accuracy of the information obtained by EPA relating to Respondent's involvement with the Site. If information is later obtained that indicates the Respondent contributed more than a *de minimis* volume to this Site, this covenant not to sue will no longer be in effect. This covenant not to sue extends only to Respondents and does not extend to any other person.

## **XI. RESERVATIONS OF RIGHTS BY EPA**

20. The covenants by EPA set forth in Paragraph 19 do not pertain to any matters other than those expressly contained therein. The EPA reserves, and this Consent Order is without prejudice to, all rights against Respondents with respect to all other matters including, but not limited to:

a. liability for failure to meet a requirement of this Consent Order;

b. criminal liability;

c. liability for damages for injury to, destruction of, or loss of natural resources and for the costs of any natural resource damage assessments; or

d. liability based upon the ownership or operation of the Site, or upon the transportation, treatment, storage, or disposal, or the arrangement for the transportation, treatment, storage, or disposal of a hazardous substance or a solid waste at or in connection with the Site, after signature of this Consent Order by Respondent.

21. Notwithstanding any other provision in this Consent Order, EPA reserves, and this Consent Order is without prejudice to, the right to institute judicial proceedings against any Respondent or administrative proceedings against any individual Respondent seeking to compel that Respondent to perform response actions relating to the Site, and/or to reimburse the United States for additional costs of response, if information is discovered which indicates that such Respondent contributed hazardous substances to the Site in such greater amount or of such greater toxic or other hazardous effects that such Respondent no longer qualifies as a *de minimis* party at the Site because such Respondent contributed greater than 0.59% of the hazardous substances at the Site or contributed hazardous substances which are significantly more toxic or are of significantly greater hazardous effect than other hazardous substances at the Site.

## **XII. COVENANT BY RESPONDENTS**

22. Respondents covenant not to assert any claims or causes of action against the United States or its contractors or employees, with respect to the Site or this Consent Order including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claims arising out of response activities at the Site; and

c. any claim against EPA pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, relating to the Site.

Except as provided in Paragraph 24 (Waiver of Claims) and Paragraph 26 (Waiver of Claim-Splitting Defenses), these covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Paragraph 20 (c) or (d) or Paragraph 21, but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

23. Nothing in this Consent Order shall be deemed to constitute preauthorization or approval of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

24. Respondents agree not to assert any claims or causes of action (including claims for contribution under CERCLA) that they may have for all matters relating to the Site against each other or any other person who is a potentially responsible party under CERCLA at the Site. This waiver shall not apply with respect to any defense, claim, or cause of action that a Respondent may have against any person if such person asserts or has asserted a claim or cause of action relating to the Site against such Respondent.

### **XIII. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION**

25. Except as provided in Paragraph 24 (Waiver of Claims), nothing in this Consent Order shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Order. Except as provided in Paragraph 24 (Waiver of Claims), EPA and Respondents each reserve any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

26. In any subsequent administrative or judicial proceeding initiated by EPA for injunctive relief, recovery of response costs, or other relief relating to the Site, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant action; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue included in Paragraph 19.

27. The Parties agree that each Respondent is entitled, as of the effective date of this Consent Order, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(g)(5) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(g)(5), for "matters addressed" in this Consent Order. The "matters addressed" in this Consent Order are all response actions taken by EPA and by private parties, and all response costs incurred and to be incurred by EPA and by private parties, at or in connection with the Site.

### **XIV. PARTIES BOUND**

28. This Consent Order shall apply to and be binding upon EPA, Respondents, and each Party's heirs, successors, and assigns. Any change in ownership or corporate or other legal status of a Respondent, including but not limited to, any transfer of assets or real or personal property, shall in no way alter such Respondent's responsibilities under this Consent Order. Each signatory to this Consent Order certifies that he or she is authorized to enter into the terms and conditions of this Consent Order and to execute and bind legally the party represented by him or her.

### **XV. INTEGRATION/APPENDICES**

29. This Consent Order and its appendices constitute the final, complete and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Order. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Order. The following appendices are attached to and incorporated into this Consent Order:

"Appendix A" is the list of Respondents with the payment schedule.

"Appendix B" is the map of the Site.

"Appendix C" is the allocation table.

"Appendix D" is the payment schedule.

"Appendix E" is the approval of the Department of Justice.

#### **XVI. PUBLIC COMMENT**

30. This Consent Order shall be subject to a public comment period of not less than thirty (30) days pursuant to Section 122(i) of CERCLA, 42 U.S.C. § 9622(i). In accordance with Section 122(i)(3) of CERCLA, 42 U.S.C. § 9622(i)(3), EPA may withdraw or withhold its consent to this Consent Order if comments received disclose facts or considerations which indicate that this Consent Order is inappropriate, improper, or inadequate.

#### **XVII. ATTORNEY GENERAL APPROVAL**

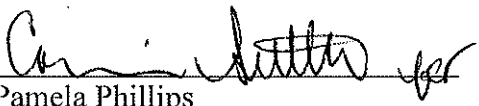

31. The settlement embodied in this Administrative Order on Consent is subject to approval by the Attorney General of the United States or his designee, as required by Section 122(g)(4) of CERCLA, 42 U.S.C. § 9622(g)(4).

#### **XVIII. EFFECTIVE DATE**

32. The effective date of this Consent Order shall be the date upon which EPA issues written notice to Respondents that the public comment period pursuant to Paragraph 30 has closed and that comments received, if any, do not require modification of or EPA withdrawal from this Consent Order.

IT IS SO AGREED AND ORDERED:

U.S. Environmental Protection Agency

By:  per  6/26/12  
Pamela Phillips [Date]  
Acting Director  
Superfund Division

IN THE MATTER OF:

Malone Service Company Superfund Site  
Texas City, Texas

Respondents Listed in Appendix A

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U.S. EPA Docket No. 06-09-11

**ADMINISTRATIVE ORDER  
ON CONSENT**

Pursuant to CERCLA 122(g),  
42 U.S.C. 9622(g)

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of CERCLA No. 06-09-11 relating to the Malone Service Company Superfund Site, Texas City, Texas.

FOR RESPONDENT:

State of Texas Comptroller of Public Accounts

Print Name of Respondent (i.e., name of company or other entity as it appears in Appendix A)

111 East 17<sup>th</sup> Street; Austin, Texas 78701

Print Address

By:

Signature

Date

Martin Hubert

Print name of Signatory

Written notice to the following notification contact person will constitute complete satisfaction of any written notice requirement (if any) of this Consent Order with respect to the Respondents who has signed above:

State of Texas Comptroller of Public Accounts – General Counsel Division

Print Name

111 East 17<sup>th</sup> Street; Austin, Texas 78701

Print Address

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IN THE MATTER OF:	§	U.S. EPA Docket No. 06-09-11
	§	
Malone Service Company Superfund Site	§	<b>ADMINISTRATIVE ORDER</b>
Texas City, Texas	§	<b>ON CONSENT</b>
	§	
Respondents Listed in Appendix A	§	Pursuant to CERCLA 122(g),
	§	42 U.S.C. 9622(g)

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THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of CERCLA No. 06-09-11 relating to the Malone Service Company Superfund Site, Texas City, Texas.

FOR RESPONDENT:

**Texas Department of Public Safety**

Print Name of Respondent (i.e., name of company or other entity as it appears in Appendix A)

**5805 North Lamar, Austin TX 78752**

Print Address

By: Steven C. McCraw 11/4/11  
Signature Date

**Steven C. McCraw**

Print name of Signatory

Written notice to the following notification contact person will constitute complete satisfaction of any written notice requirement (if any) of this Consent Order with respect to the Respondents who has signed above:

Kellie E. Billings, Assistant Attorney General  
Office of the Attorney General  
Environmental Protection and Administrative Law  
PO Box 12548, MC-018  
Austin TX 78711-2548

IN THE MATTER OF:

Malone Service Company Superfund Site  
Texas City, Texas

Respondents Listed in Appendix A

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U.S. EPA Docket No. 06-09-11

**ADMINISTRATIVE ORDER  
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Pursuant to CERCLA 122(g),  
42 U.S.C. 9622(g)

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of CERCLA No. 06-09-11 relating to the Malone Service Company Superfund Site, Texas City, Texas.

FOR RESPONDENT:

State of Texas Department of Aging and Disability Services  
Print Name of Respondent (i.e., name of company or other entity as it appears in Appendix A)

701 W. 51<sup>st</sup> Street, Austin, Texas 78714  
Print Address

By: Kenneth L. Owens 9/14/2011  
Signature Date

Kenneth L. Owens  
Print name of Signatory

Written notice to the following notification contact person will constitute complete satisfaction of any written notice requirement (if any) of this Consent Order with respect to the Respondents who has signed above:

Kenneth L. Owens (W-615)  
Print Name

701 W. 51<sup>st</sup> Street, P.O. Box 149030, Austin, Tx 78714-9030  
Print Address

IN THE MATTER OF:

Malone Service Company Superfund Site  
Texas City, Texas

Respondents Listed in Appendix A

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U.S. EPA Docket No. 06-09-11

**ADMINISTRATIVE ORDER  
ON CONSENT**

Pursuant to CERCLA 122(g),  
42 U.S.C. 9622(g)

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of CERCLA No. 06-09-11 relating to the Malone Service Company Superfund Site, Texas City, Texas.

FOR RESPONDENT:

Lower Colorado River Authority

Print Name of Respondent (i.e., name of company or other entity as it appears in Appendix A)

P.O. Box 220, Austin, TX 78767

Print Address

By:

Henry Eby  
Signature

9/28/11

Date

Henry Eby  
Print name of Signatory

Executive Manager Environmental and Regulatory Affairs

Written notice to the following notification contact person will constitute complete satisfaction of any written notice requirement (if any) of this Consent Order with respect to the Respondents who has signed above:

Patti Hershey

Print Name

LCRA, P.O. Box 220, Austin, TX 78767

Print Address

Associate General Counsel



IN THE MATTER OF: § U.S. EPA Docket No. 06-09-11  
§  
Malone Service Company Superfund Site §  
Texas City, Texas § ADMINISTRATIVE ORDER  
§ ON CONSENT  
§  
Respondents Listed in Appendix A § Pursuant to CERCLA 122(g),  
§ 42 U.S.C. 9622(g)

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of CERCLA No. 06-09-11 relating to the Malone Service Company Superfund Site, Texas City, Texas.

FOR RESPONDENT:

State of Texas Department of Transportation  
Print Name of Respondent (i.e., name of company or other entity as it appears in Appendix A)  
125 E. 11th Street Austin, Texas 78701  
Print Address

By: John A. Barton P.E. 22 Sept 2011  
Signature Date  
JOHN A. BARTON  
Print name of Signatory

Written notice to the following notification contact person will constitute complete satisfaction of any written notice requirement (if any) of this Consent Order with respect to the Respondents who has signed above:

Office of General Counsel  
Print Name  
Texas Department of Transportation  
Print Address  
125 E. 11th Austin, Texas 78701

IN THE MATTER OF:

Malone Service Company Superfund Site  
Texas City, Texas

Respondents Listed in Appendix A

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U.S. EPA Docket No. 06-09-11

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Pursuant to CERCLA 122(g),  
42 U.S.C. 9622(g)

THE UNDERSIGNED RESPONDENT enters into this Consent Order in the matter of CERCLA No. 06-09-11 relating to the Malone Service Company Superfund Site, Texas City, Texas.

FOR RESPONDENT:

TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Print Name of Respondent (i.e., name of company or other entity as it appears in Appendix A)

P.O. BOX 4004 HUNTSVILLE, TX 77342-4004

Print Address

By:



Signature

Date

9/21/11

MICHAEL McMANUS

Print name of Signatory

Written notice to the following notification contact person will constitute complete satisfaction of any written notice requirement (if any) of this Consent Order with respect to the Respondents who has signed above:

MICHAEL McMANUS

DEPUTY GENERAL COUNSEL

Print Name

P.O. BOX 4004

HUNTSVILLE, TX 77342-4004

Print Address

**APPENDIX A**

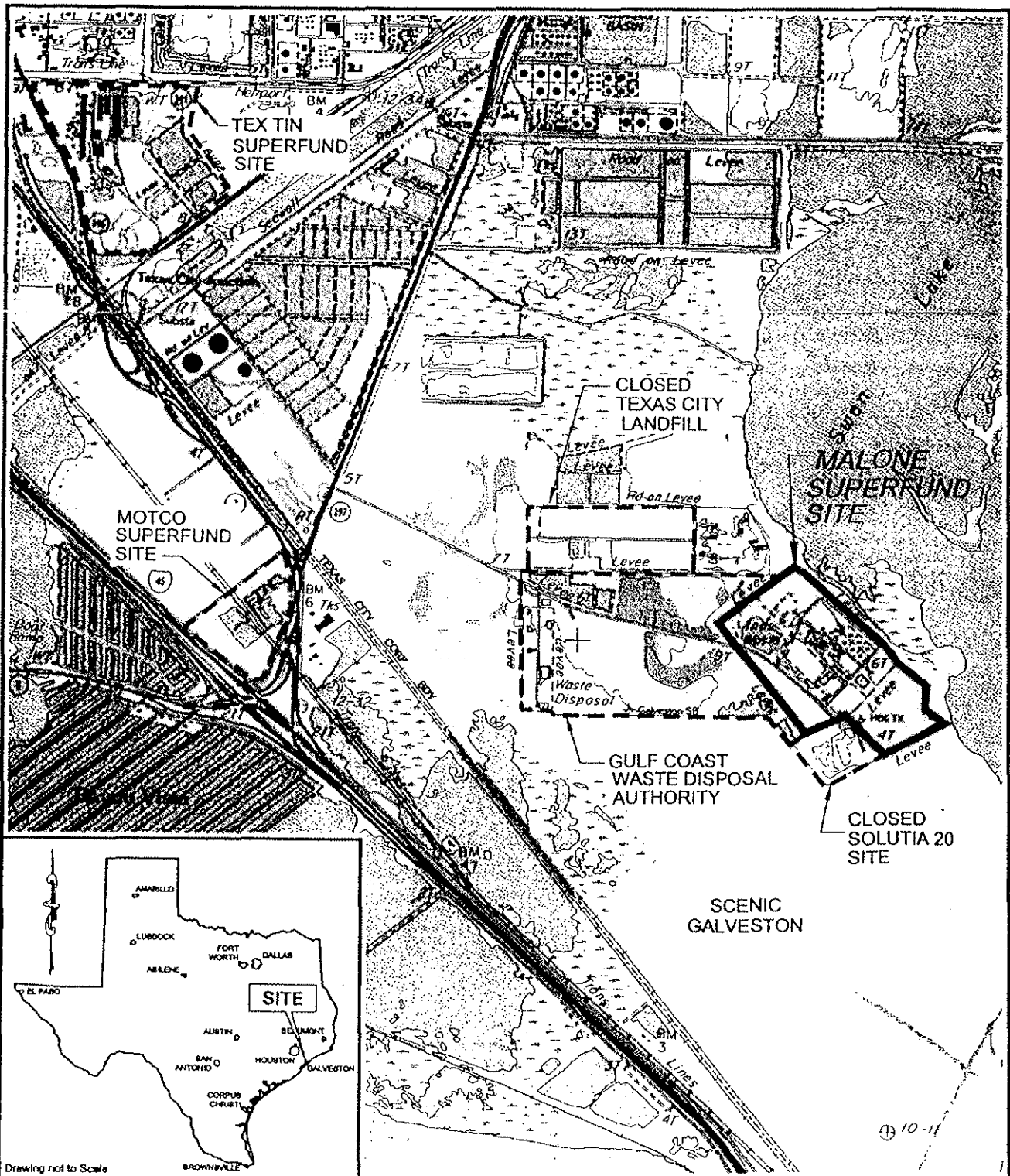
**MALONE SERVICE COMPANY SUPERFUND SITE**

**LIST OF RESPONDENTS**

**STATE OF TEXAS *DE MINIMIS* SETTLEMENT**

State of Texas Comptroller of Public Accounts  
State of Texas Department of Aging and Disability Services  
State of Texas Department of Criminal Justice  
State of Texas Department of Public Safety  
State of Texas Department of Transportation  
State of Texas Lower Colorado River Authority

**APPENDIX B**  
**MALONE SERVICE COMPANY SUPEFUND SITE**  
**SITE MAP**



0 2000 4000  
 APPROXIMATE SCALE IN FEET  
 SCALE= 1:24000

Image Source:  
 U.S.G.S. 7.5-minute series topographic map.  
 Virginia Point, Texas Quadrangle, 1994;

Source:  
 Modified from URS Feasibility Study Report,  
 June 2008.

**Malone Service Company  
 Superfund Site**

Site Location Map

# APPENDIX C

## MALONE SERVICE COMPANY SUPERFUND SITE

### ALLOCATION FOR *DE MINIMIS* OFFER

### STATE OF TEXAS *DE MINIMIS* SETTLEMENT

	Volume in Gallons	Percentage Share of Volume	Non- RI/FS Past Cost Share	RI/FS Cost Share	Post- RI/FS Through ROD Cost Share	Future Cost Share	Premium Cost Share	Allocation Payment
State of Texas Comptroller of Public Accounts	8,469	0.00175939%	\$216	\$96	\$19	\$929	\$929	\$2,189
State of Texas Department of Aging and Disability Services	1,200	0.00024931%	\$31	\$14	\$3	\$132	\$132	\$310
State of Texas Department of Criminal Justice	2,619	0.00054417%	\$67	\$30	\$6	\$287	\$287	\$677
State of Texas Department of Public Safety	77	0.00001596%	\$2	\$1	\$0	\$8	\$8	\$20
State of Texas Department of Transportation	77,515	0.01610440%	\$1,980	\$877	\$172	\$8,503	\$8,503	\$20,035
State of Texas Lower Colorado River Authority	36,721	0.00762908%	\$938	\$415	\$82	\$4,028	\$4,028	\$9,491
TOTAL for State of Texas Entities			\$3,234	\$1,433	\$282	\$13,887	\$13,887	\$32,722

**APPENDIX D**

**MALONE SERVICE COMPANY SUPERFUND SITE**

***DE MINIMIS* PAYMENT SCHEDULE**

**STATE OF TEXAS *DE MINIMIS* SETTLEMENT**

State of Texas Comptroller of Public Accounts	<b>\$2,189</b>
State of Texas Department of Aging and Disability Services	<b>\$310</b>
State of Texas Department of Criminal Justice	<b>\$677</b>
State of Texas Department of Public Safety	<b>\$20</b>
State of Texas Department of Transportation	<b>\$20,035</b>
State of Texas Lower Colorado River Authority	<b>\$9,491</b>
<b>TOTAL for State of Texas Entities</b>	<b>\$32,722</b>

**APPENDIX E**

**MALONE SERVICE COMPANY SUPERFUND SITE  
APPROVAL OF THE DEPARTMENT OF JUSTICE**





U.S. Department of Justice

Environment and Natural Resources Division

90-11-2-07465/6

Environmental Enforcement Section  
P.O. Box 7611  
Washington, DC 20044-7611

Telephone (202) 514-4241  
Facsimile (202) 514-8865

April 17, 2012

By U.S. Mail

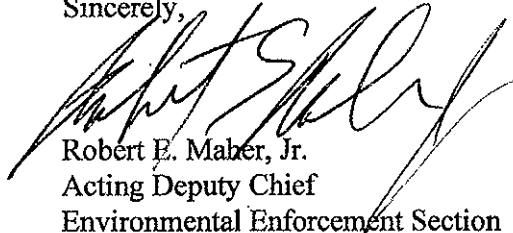
Suzanne Murray  
Regional Counsel (6RC)  
U.S. Environmental Protection Agency Region 6  
1445 Ross Avenue, Suite 1200  
Dallas, Texas 75202-2733

Re: In the Matter of Malone Service Company  
Administrative Consent Order (Number 4, for State Agencies) for *De Minimis*  
Contributors Under CERCLA Section 122(g), Docket No. 06-09-11

Dear Ms. Murray:

I have reviewed the Administrative Order on Consent ("Agreement") in the above-referenced matter pursuant to which six state agencies will settle their liability to EPA for past and future response costs and actions at the Site based on their *de minimis* contributions to hazardous substances disposed at the Site. Pursuant to Section 122(g) of the Comprehensive Environmental Response Compensation, and Liability Act, 42 U.S.C. § 9622(g), and the Attorney General's inherent authority, I agree with and have approved of the proposed Agreement.

Sincerely,



Robert E. Maher, Jr.  
Acting Deputy Chief  
Environmental Enforcement Section

cc: I-Jung Chiang, EPA